

BAP COMPROMISE AND SETTLEMENT PROCEDURE

With Sample Pleadings

BAP appeals will not be stayed or held in abeyance pending a bankruptcy court's ruling on a motion to compromise under B.R. 9019 unless the appellant files a motion to stay the appeal or hold it in abeyance. Such motions will be dealt with as follows:

1) If a motion to compromise has not been filed in the bankruptcy court, the appeal will not be stayed. A clerk's order denying the motion for a stay will be entered. The order will state that the denial is without prejudice to renewal of the motion upon the actual filing of a motion to compromise in the bankruptcy court.

2) If a motion to compromise has been filed in the bankruptcy court, the appeal will be stayed and a clerk's order will be entered granting a limited remand. The remand will be for the limited purpose of allowing the bankruptcy court to rule on the proposed compromise. The order will instruct the bankruptcy court to forward a copy of its ruling on the proposed compromise to the BAP as part of the supplemental record on appeal.

a) If the bankruptcy court does not approve the compromise, the appeal will be taken out of abeyance and a briefing schedule will be established.

b) If the settlement is approved, a clerk's order will be entered directing the appellant to file a voluntary dismissal within fifteen days or show cause why the appeal should not be dismissed as moot. If no response is filed to the show cause order, the case will be dismissed for want of prosecution.

No.

BANKRUPTCY APPELLATE PANEL
FOR THE SIXTH CIRCUIT

In re:

Debtor

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MOTION FOR ORDER
OF LIMITED REMAND

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The Appellant (parties) herein move(s) to hold the appeal herein in abeyance for purposes of perfecting a settlement. On _____ a motion to compromise was filed in the Bankruptcy Court and a hearing is scheduled on the motion for _____. In view of these circumstances, a limited remand is required in order to permit the Bankruptcy Court to rule on the pending motion to compromise. *See Main Line Fed Sav and Loan Assn v. Tri-Kell, Inc.*, 721 F.2d 904, 906 (3rd Cir. 1983); *In re Bialac*, 694 F.2d 625, 627 (9th Cir. 1982).

Appellant (the parties) therefore move(s) that this case be held in abeyance and remanded to the Bankruptcy Court for the limited purpose of allowing the Bankruptcy Court to rule on the motion for compromise.

(Name of Counsel)
Attorney for Appellant(s)
(Name of Parties)

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing pleading has been served on all counsel of record, by regular U.S. Mail, this _____ day of _____, 20__.

Attorney for Appellant

No.

BANKRUPTCY APPELLATE PANEL
FOR THE SIXTH CIRCUIT

In re:

Debtor

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ORDER

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The parties herein move for a limited remand in order to permit the Bankruptcy Court to rule on their pending motion filed in the Bankruptcy Court. See Main Line Federal Sav. and Loan Ass'n v. Tri-Kell, Inc., 721 F.2d 904, 906 (3rd Cir. 1983); In re Bialac, 694 F.2d 625, 627 (9th Cir. 1982).

It is ORDERED that this case is held in abeyance and remanded, in part, to the Bankruptcy Court for the limited purpose of allowing the Bankruptcy Court to rule on their aforementioned motion. The Bankruptcy Court is directed to file a status report every thirty (30) days by sending a copy of the Bankruptcy Court's docket sheet. A copy of the Bankruptcy Court's ruling on the motion for compromise shall be forwarded to this Court as a part of the supplemental record on appeal.

ENTERED PURSUANT TO 6TH CIR.
BAP LBR 8070-1(a) and
SIXTH CIRCUIT RULE 33
Leonard Green, Clerk
